

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

ARTHUR DAVID TINNON

PLAINTIFF

v.

No. 4:06CV65-M-B

LIEUTENANT RAY LEE

DEFENDANT

ORDER OF DISMISSAL

The *pro se* prisoner plaintiff Arthur David Tinnon, inmate number 56092, in the custody of the Mississippi Department of Corrections and housed at the Mississippi State Penitentiary, filed a complaint under 42 U.S.C. § 1983 challenging the conditions of his confinement. A plaintiff's claim shall be dismissed if "it lacks an arguable basis in law or fact, such as when a prisoner alleges the violation of a legal interest that does not exist." *Martin v. Scott*, 156 F.3d 578 (5th Cir. 1998)(citations omitted). For the purposes of the Prison Litigation Reform Act, the court notes that the plaintiff was incarcerated when he filed this lawsuit.¹

The court must ensure that the plaintiff has exhausted his administrative remedies with the Mississippi Department of Corrections before examining the merits of the plaintiff's claims. 42 U.S.C. § 1997e(a), *Wright v. Hollingsworth*, 260 F.3d 357 (5th Cir. 2001). In this case the plaintiff acknowledges that he has not completed the three-step administrative remedy program, arguing that he seeks monetary damages, a type of relief not available under the Mississippi Department of Corrections Administrative Remedy Program. This argument is without merit, as a *pro se* prisoner plaintiff is required to exhaust the Administrative Remedy Program process,

¹28 U.S.C. § 1915(g).

whether or not the specific type of relief he seeks is available. *Booth v. Churner*, 531 U.S. 956, 121 S. Ct. 1819, 1825 (2001). As such, this case is hereby **DISMISSED** for failure to exhaust administrative remedies under 42 U.S.C. § 1997e(a).

This, the 20th day of June, 2006.

/s/ Michael P. Mills
UNITED STATES DISTRICT JUDGE